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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,298	07/09/2003	Alfons Sieverding	302220	1297

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EXAMINER
VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/604,298	SIEVERDING, ALFONS	
	Examiner	Art Unit	
	Andrea M. Valenti	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,10,12-16,18 and 19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,10,12-16,18 and 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has not presented the concept of the inner edge of the second ledge is sized to form an annular play of o.1 mm therebetween the first ledge.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2-6, 10, 12-16, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,653,362 to Davis in view of English translation of Japanese Patent JP 05-213358A to Yosomiya.

Regarding Claim 1, Davis teaches a stackable plastic plant pot (Davis Col. 1 line 63; applicant has not claimed the plant and Davis teaches a container and plants can grow in any container so Davis's container can be inherently a plant pot) comprising; an at least slightly conical wall (Davis Fig. 2 #12) and a bottom (Davis Fig. 2 #16) connected to the conical wall; wherein the conical wall has a rim area (Davis Fig. 3) remote from the bottom; wherein the rim area is comprised of a an upward-facing first ledge (Davis Fig. 1 #22) and a downward-facing second ledge (Davis Fig. 1 #24), located below the first ledge: wherein the rim area comprises an intermediate support area (Davis Fig. 1 #30, 26, 24) having a first end connected to the first ledge and a second end connected to the second ledge; wherein a stacking spacing of the plastic plant pot, when stacked in a stack, is determined by the first and second ledges; wherein the first and second ledges, in a plan view onto the rim area, at least partially overlap (Davis Fig. 3); wherein the intermediate support area has a wave shape (Davis Fig. 1 #30) at least at one of the first and second ends which softens a cross-sectional stiffness of the rim area for improved removal from a deep drawing mold; wherein the second ledge has a contour matching the wave shape of the intermediate support area (Davis #24) and overlaps in a plan view radially at least most of a radial width of the first ledge wherein the second ledge continuously extends uninterrupted over an entire periphery of the plant pot; wherein the first ledge forms an upper flange rim of the rim area and wherein an inner edge of the first ledge is larger in the radial direction than an inner edge of the second ledge (Davis Fig. 3 if one were to draw a straight vertical line

up from inside edge of element #24 it would not intersect the inside edge of element #22 thus is larger).

Davis teaches a receptacle/container with an upper flange, but is silent on wherein the upper flange rim has a wall thickness that is greater than a wall thickness of the remaining parts of the plastic container: However, Yosomiya teaches a stackable receptacle/container with an upper flange of wall thickness greater than the wall thickness of remaining parts (Yosomiya Fig. 3 #13). It would have been obvious to one of ordinary skill in the art to modify the teachings of Davis with the teachings of Yosomiya at the time of the invention to for increased structural stability when carrying the item by the upper flange.

Davis as modified is silent on explicitly teaching deep-drawn. However, it would have been obvious to one of ordinary skill in the art to further modify the teachings of Davis at the time of the invention since the modification is merely an engineering design choice involving the selection of a known alternate plastics manufacturing means selected for the known advantage of utilizing a system capable of producing uniform containers at a low-cost.

Regarding Claim 2, Davis as modified teaches the wave shape is rectangular (Davis Fig. 2 #30).

Regarding Claim 3, Davis as modified teaches the wave shape forms divisions in the circumferential direction which are not significantly greater than dimensions of the intermediate support area (Davis Fig. 1 #31).

Regarding Claim 4, Davis as modified teaches the wave shape is continued across the intermediate support area at least with reduced amplitude from the one of the first and second ends to the other of the first and second ends (Davis Fig. 1 #30).

Regarding Claim 5, Davis as modified teaches the intermediate support area within the wave shape has a primarily vertically extending surface lines (Davis Fig. 2 #26).

Regarding Claim 6, Davis as modified teaches wherein at least one of the first and second ledges forms a centering means for a play-reduced centering relative to a neighboring deep-drawn plastic container when stacked in a stack (Davis Fig. 3).

Regarding Claim 10, Davis as modified teaches the upper flange rim has an outer downwardly bent edge (Davis Fig. 3 #22).

Regarding Claim 12, Davis as modified teaches the wave shape (Davis #26 and 30) softens the cross-section stiffness of the rim area *to permit* deformation of the rim area during removal from the deep drawn mold.

Regarding Claim 13, Davis as modified teaches the wave shape is sized and shaped to permit deformation of at least the second ledge during removal from a deep drawing mold (Davis teaches all of the claimed structural features and is thus capable of performing the functions claimed).

Regarding Claim 14, Davis as modified teaches the wave shape softens the cross-sectional stiffness of the rim area but does not soften a longitudinal stiffness of the rim area (Davis teaches all of the claimed structural features and is thus capable of performing the functions claimed).

Regarding Claim 15, Davis as modified teaches the intermediate support area has a reverse taper (Davis #26 and Yosomiya Fig. 2 #14).

Regarding Claim 16, Davis as modified teaches the wave shape is a wedge shape in the vertical direction so that the first ledge has a contour uninterrupted by the wave shape of the intermediate support area (Davis #30).

Regarding Claim 18, Davis as modified is silent on explicitly teaching the inner edge of the first and the inner edge of the second ledge are sized to form an annular play of 0.1 mm therebetween when stacked in a stack. However, it would have been obvious to one of ordinary skill in the art to further modify the teachings of Davis at the time of the invention depending on the number of stacked containers on top of eachother.

Regarding Claim 19, Davis as modified teaches the plant pot is not resiliently deformed when stacked in a stack (Davis Fig. 3).

Response to Arguments

Applicant's arguments with respect to claims 1, 2-6, 10, 12-16, 18-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrea M. Valenti
Patent Examiner
Art Unit 3643

16 May 2006